

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MEMORANDUM IN SUPPORT OF JOINT MOTION FOR EXTENSION OF DEADLINES

Come now Plaintiff and Defendants, by and through their undersigned counsel, and respectfully submit this Memorandum in Support of their Joint Motion for Extension of Deadlines, and in support state as follows:

On February 26, 2008, Defendants filed a Joint Motion to Disqualify Plaintiff's Counsel ("Motion to Disqualify") on the grounds that Plaintiff's counsel was laboring under a conflict of interest and that Plaintiff's counsel was a necessary witness in the case. [Dkt. #92]. The parties engaged in limited discovery on the disqualification motion and presented evidence to Magistrate Judge Vescovo in an evidentiary hearing held in July 2008. On September 4, 2008, Judge Vescovo issued her Report and Recommendation on Defendant's Joint Motion to Disqualify Counsel and Order Denying Plaintiff's Request to Consider Additional Legal Authorities ("Report"). [Dkt. #138]. In her Report, the Magistrate Judge recommended that Defendants' Motion to Disqualify Plaintiff's counsel be granted and that Plaintiff's counsel be disqualified from representing Plaintiff. Report, pp. 2, 20. On September 19, 2008, this Court adopted

Magistrate Judge Vescovo's Report and ordered that Matthew P. Cavitch be disqualified as counsel for Plaintiff. [Dkt. #140]. In the interim, this Court has scheduled a Status Conference for October 9, 2008.¹

The current deadline for the close of discovery in this case is October 31, 2008. However, while the disqualification motion has been pending, the parties have not been able to engage in discovery on the merits (other than to exchange initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)) and, in fact, believe it may have been inappropriate to do so. Accordingly, the parties respectfully request that the current deadline for the conclusion of discovery and all subsequent deadlines be postponed, and suggest that a new schedule be set during the upcoming Status Conference.

Respectfully submitted,

s/ Robert F. Tom

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¹ On September 19, 2008, Defendants filed a Consent Motion to Reset Status Conference.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been electronically filed using the CM/ECF system this 22nd day of September, 2008.

s/Robert F. Tom

Robert F. Tom